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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

NIKISHNA POLEQUAPTEWA,

Defendant.

No. SA CR 16-36-CJC

STIPULATION REGARDING REQUEST FOR (1) CONTINUANCE OF TRIAL DATE AND (2) FINDINGS OF EXCLUDABLE TIME PERIODS PURSUANT TO SPEEDY TRIAL ACT

CURRENT TRIAL DATE: 12-6-16
[PROPOSED TRIAL DATE]: 6-27-17

CURRENT PRETRIAL CONF: 11-21-16
[PROPOSED PRETRIAL CONF]:6-19-17

Plaintiff United States of America, by and through its counsel of record, the United States Attorney for the Central District of California and Assistant United States Attorney Vibhav Mittal, and defendant NIKISHNA POLEQUAPTEWA, by and through his counsel of record, hereby stipulate as follows:

1. The Indictment in this case was filed on March 23, 2016. Defendant NIKISHNA POLEQUAPTEWA first appeared before a judicial officer of the court in which the charges in this case were pending

on May 6, 2016. The Speedy Trial Act, 18 U.S.C. § 3161, originally required that the trial commence on or before July 15, 2016.

2. On May 6, 2016, the Court set a trial date of June 28, 2016, and a pretrial conference date of June 20, 2016.

3. Defendant is on bond pending trial. The parties estimate that the trial in this matter will last approximately three to four days.

4. The Court has previously continued the trial date in this case from June 9, 2015, to December 6, 2016, and found the interim period to be excluded in computing the time within which the trial must commence, pursuant to the Speedy Trial Act.

5. By this stipulation, defendant moves to continue the trial date to June 27, 2017, and the pretrial conference to June 19, 2017. This is the second request for a continuance.

6. Defendant requests the continuance based upon the following facts, which the parties believe demonstrate good cause to support the appropriate findings under the Speedy Trial Act:

a. Defendant is charged with a violation of 18 U.S.C. §§ 1030(a)(5)(A), (c)(4)(B)(i), (c)(4)(A)(i)(I): Unauthorized Impairment of a Protected Computer. The government has produced discovery to the defense; however, defense counsel has been unable to open the discovery with his office's Mac computers. The parties are planning to meet and confer the week of August 15, 2016, to address and resolve the discovery issue.

b. Because of the trial dates in his other matters, defense counsel represents that he will not have the time that he believes is necessary to prepare to try this case on the current trial date.

c. In light of the foregoing, counsel for defendant also represent that additional time is necessary to confer with defendant, conduct and complete an independent investigation of the case, conduct and complete additional legal research including for potential pre-trial motions, review the discovery and potential evidence in the case, and prepare for trial in the event that a pretrial resolution does not occur. Defense counsel represent that failure to grant the continuance would deny him reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

d. Defendant believes that failure to grant the continuance will deny them continuity of counsel and adequate representation.

e. The government does not object to the continuance.

f. The requested continuance is not based on congestion of the Court's calendar, lack of diligent preparation on the part of the attorney for the government or the defense, or failure on the part of the attorney for the Government to obtain available witnesses.

7. For purposes of computing the date under the Speedy Trial Act by which defendant's trial must commence, the parties agree that the time period of December 6, 2016, to June 27, 2017, inclusive, should be excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and (h)(7)(B)(iv) because the delay results from a continuance granted by the Court at defendant's request, without government objection, on the basis of the Court's finding that: (i) the ends of justice served by the continuance outweigh the best interest of the public and defendant in a speedy trial; (ii) failure

to grant the continuance would be likely to make a continuation of the proceeding impossible, or result in a miscarriage of justice; and (iii) failure to grant the continuance would unreasonably deny defendant continuity of counsel and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

8. Nothing in this stipulation shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods be excluded from the period within which trial must commence. Moreover, the same provisions and/or other provisions of the Speedy Trial Act may in the future authorize the exclusion of additional time periods from the period within which trial must commence.

IT IS SO STIPULATED.

Dated: August 11, 2016

Respectfully submitted,

EILEEN M. DECKER
United States Attorney

DENNISE WILLETT
Assistant United States Attorney
Chief, Santa Ana Branch Office

/s/ Vibhav Mittal
VIBHAV MITTAL
Assistant United States Attorney

Attorneys for Plaintiff
UNITED STATES OF AMERICA

I am NIKISHNA POLEQUAPTEWA's attorney. I have carefully discussed every part of this stipulation and the continuance of the trial date with my client. I have fully informed my client of his Speedy Trial rights. To my knowledge, my client understands those rights and agrees to waive them. I believe that my client's decision to give up the right to be brought to trial earlier than June 27, 2017, is an informed and voluntary one.

/s/ per email authorization August 11, 2016

Michael John Khouri
Attorney for Defendant
NIKISHNA POLEQUAPTEWA

Date